

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 5:16CR8-02
(STAMP)

RONNELL A. WILLIAMS,

Defendant.

MEMORANDUM OPINION AND ORDER
DENYING DEFENDANT'S MOTION TO REDUCE SENTENCE AND
DIRECTING THE CLERK TO SEND DEFENDANT FORMS
FOR FILING ACTION UNDER 28 U.S.C. § 2255

On November 2, 2016, an order of judgment was entered against the defendant sentencing him to 110 months of incarceration with three years of supervised release to follow. On January 3, 2017, the Court received a pro se¹ letter, which was subsequently docketed in the above-styled criminal action as a motion to reduce sentence based on the relief requested by the defendant. ECF No. 88. In the letter, construed by the Court as a motion to reduce sentence, the defendant asks for a reduction in his sentence based on his presentence cooperation with the government.

The Court directed the government to respond to the defendant's motion, and the government filed its response on January 5, 2017. ECF No. 90. In its response, the government points out that the defendant's presentence cooperation was already

¹"Pro se" describes a person who represents himself in a court proceeding without the assistance of a lawyer. Black's Law Dictionary 1416 (10th ed. 2014).

recognized and rewarded with a substantial assistance motion made by the government and granted by the Court at the defendant's sentencing. The government further indicates that the defendant has not provided any additional assistance since his sentence was imposed and that the government does not anticipate any future additional assistance from the defendant.

Pursuant to 18 U.S.C. § 3582(c), an imposed term of imprisonment may only be modified by the court (1) upon a motion by the Director of the Bureau of Prisons; (2) if expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure; or (3) if the defendant has been "sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion" Further, Rule 35 of the Federal Rules of Criminal Procedure allows a court to reduce or correct a sentence if there is an "arithmetical, technical, or other clear error" or upon the filing of a motion by the government.

None of the above apply to the defendant's sentence. A motion has not been filed by either the Director of the Bureau of Prisons or the government; a sentence reduction is not clearly permitted by statute; and an applicable sentencing range has not been subsequently lowered. As for an error in the sentence, this Court

finds that an error did not occur, nor has the defendant alleged such an error, in computing the defendant's sentence. Thus, this Court finds that the defendant has not provided reason to reduce his sentence. Based on the analysis above, the defendant's motion to reduce his sentence (ECF No. 88) is hereby DENIED.

The Court received a second letter from the defendant on January 5, 2017 and docketed it as a supplement to the defendant's motion to reduce sentence. ECF No. 91. The supplement reasserts the defendant's request for a reduction in his sentence based on his presentence cooperation with the government. In both the defendant's original motion and the supplement, the defendant makes statements alleging ineffective assistance of counsel, which may presently entitle him to relief under 28 U.S.C. § 2255. Accordingly, the Clerk is DIRECTED to send the defendant the forms for filing a claim under § 2255. The entry of this memorandum opinion and order does not indicate that the Court believes the defendant has a valid claim under § 2255.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this memorandum opinion and order to the pro se defendant by certified mail and to counsel of record herein.

DATED: January 11, 2017

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE